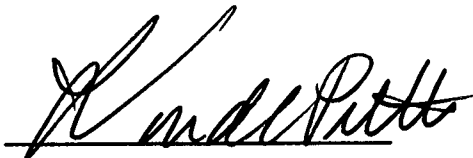


By



H. B. No. 3415

A BILL TO BE ENTITLED

AN ACT

relating to regulation of mail order sales of hearing instruments.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1.01, Chapter 366, Acts of the 61st Legislature, Regular Session, 1969 (Article 4566-1.01, Vernon's Texas Civil Statutes), is amended by adding Subdivision (16) to read as follows:

(16) "Mail order sales" means the transfer of title or of the right to use by lease, bailment, or any other contract from any person whose primary business is the sale of hearing instruments, and who is located in a state of the United State other than this state.

SECTION 2. Section 1.01A, Chapter 366, Acts of the 61st Legislature, Regular Session, 1969 (Article 4566-1.01A, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1.01A. POLICY. It is the policy of this state to:

(1) safeguard the health and welfare of the communicatively handicapped people of this state from the dispensing of hearing instruments by unskilled or unprincipled practitioners;

(2) establish and enforce standards of practitioner competency;

(3) provide regulatory authority over practitioners offering hearing instrument dispensing services to the public; and

1 (4) ensure professional ethical conduct in the
2 dispensing of hearing aid devices or instruments.

3 SECTION 3. Section 1.15, Chapter 366, Acts of the 61st
4 Legislature, Regular Session, 1969 (Article 4566-1.15, Vernon's
5 Texas Civil Statutes), is amended to read as follows:

6 Sec. 1.15. PROHIBITED ACTS; (a) It is unlawful for any
7 person to:

8 (1) buy, sell, or fraudulently obtain a license to fit
9 and dispense hearing instruments or aid another in any of those
10 activities;

11 (2) alter a license to fit and dispense hearing
12 instruments with the intent to defraud;

13 (3) willfully make a false statement in an application
14 to the committee for a license, for a temporary training permit, or
15 for the renewal of a license;

16 (4) falsely impersonate any person licensed as a
17 fitter and dispenser of hearing instruments under this Act;

18 (5) offer or represent that the person is authorized
19 to fit and dispense hearing instruments, or use in connection with
20 the person's name any designation tending to imply that the person
21 is authorized to engage in the fitting and dispensing of hearing
22 instruments, if the person is not licensed under the provisions of
23 this Act;

24 (6) engage in the fitting and dispensing of hearing
25 instruments during the time the person's license shall be
26 cancelled, suspended, or revoked;

27 (7) dispense or fit a hearing instrument on any

1 individual who has ordered the hearing instrument or device by
2 mail, unless the person dispensing and fitting the hearing
3 instrument or device is licensed under this Act or under Chapter
4 381, Acts of the 68th Legislature, Regular Session, 1983 (Article
5 4512j, Vernon's Texas Civil Statutes), and its subsequent
6 amendments; or

7 (8) offer for sale or sell [~~selling~~] hearing
8 instruments by mail.

9 (b)(1) It is unlawful for any person not a licensed
10 dispenser of hearing instruments or a holder of a temporary
11 training permit or an apprentice permit provided in this Act, or a
12 licensed physician or surgeon to do any one act or thing or any
13 combination of acts or things named or described in this section.

14 (2) Any offer for sale or sale of a hearing instrument
15 in this state must include the fitting of the hearing device prior
16 to the sale.

17 (3) Nothing in this Act is intended to prohibit
18 advertising by mail or delivery of a hearing device by mail if the
19 fitting and sale were completed in this state.

20 SECTION 4. Section 1.16A, Chapter 366, Acts of the 61st
21 Legislature, Regular Session, 1969 (Article 4566-1.16A(a), Vernon's
22 Texas Civil Statutes), is amended to read as follows:

23 Sec. 1.16A. SURETY BONDING. (a) A sole proprietor,
24 partnership, corporation, or other legal entity regardless of
25 location, engaged in the sale or offer of sale or fitting and
26 dispensing of hearing instruments shall file a bond or a surety in
27 lieu of a bond in the amount of \$10,000 with the committee

1 conditioned on the promise to pay all:

2 (1) taxes and contributions due to the state and
3 political subdivisions of the state by the sole practitioner,
4 partnership, corporation, or other legal entity; and

5 (2) judgments that the sole practitioner, partnership,
6 corporation, or other legal entity may be required to pay for
7 negligently or improperly dispensing hearing instruments or for
8 breaching a contract relating to the dispensing of hearing
9 instruments.

10 SECTION 5. Section 9, Chapter 381, Acts of the 68th
11 Legislature, Regular Session, 1983 (Article 4512j-9 Vernon's Texas
12 Civil Statutes), is amended by adding subdivisions (e) and (f) to
13 read as follows:

14 (e) A licensed hearing aid fitter and dispenser or licensed
15 audiologist may not offer for sale or sell a hearing instrument in
16 this state without including the fitting of the hearing device
17 prior to the sale.

18 (f) Nothing in this Act is intended to prohibit advertising
19 by mail or delivery of a hearing device by mail if the fitting and
20 sale were completed in this state.

21 SECTION 6. This Act takes effect September 1, 1999.

22 SECTION 7. The importance of this legislation and the
23 crowded condition of the calendars in both houses create an
24 emergency and an imperative public necessity that the
25 constitutional rule requiring bills to be read on three several
26 days in each house be suspended, and this rule is hereby suspended.

76TH LEGISLATURE

COAUTHOR AUTHORIZATION

(please request your coauthors to sign this form
in lieu of the front or the back of the original bill)

For chief clerk use only

Bill or Resolution Number:

HB 3415

3-12-99

signature of primary author

printed name of primary author

Date

PERMISSION TO SIGN _____ HAS BEEN GIVEN TO (check only one of the following):
(bill or resolution #)

☒ ALL REPRESENTATIVES

☐ THE FOLLOWING REPRESENTATIVE(S): _____

I authorize the Chief Clerk to include my name as a coauthor of the legislation indicated above:

A2120 Alexander	Date	A2600 Counts	Date	A2795 Farabee	Date
A2115 Allen	Date	A2605 Crabb	Date	A2810 Farrar	Date
A2105 Alvarado	Date	A2610 Craddick	Date	A2840 Flores	Date
A2135 Averitt	Date	A2615 Crownover	Date	A2920 Gallego	Date
A2160 Bailey	Date	A2645 Cuellar	Date	A2930 Garcia	Date
A2205 Berman	Date	A2635 Culberson	Date	A2940 George	Date
A2250 Bonnen	Date	A2670 Danburg	Date	A2935 Giddings	Date
A2275 Bosse	Date	A2620 Davis, John	Date	A2880 Glaze	Date
A2260 Brimer	Date	A2625 Davis, Yvonne	Date	A2985 Goodman	Date
A2265 Brown, Betty	Date	A2680 Delisi	Date	A2990 Goolsby	Date
A2270 Brown, Fred	Date	A3385 Denny	Date	A3005 Gray	Date
A2255 Burnam	Date	A2690 Deshotel	Date	A3000 Green	Date
A2300 Capelo	Date	A2705 Driver	Date	A3010 Greenberg	Date
A2400 Carter	Date	A2665 Dukes	Date	A3020 Grusendorf	Date
A2585 Chavez	Date	A2660 Dunnam	Date	A3030 Gutierrez	Date
A2480 Chisum	Date	A2650 Dutton	Date	A3035 Haggerty	Date
A2525 Christian	Date	A2770 Edwards	Date	A2695 Hamric	Date
A2520 Clark	Date	A2760 Ehrhardt	Date	A3160 Hardcastle	Date
A2435 Coleman	Date	A2775 Eiland	Date	A3170 Hartnett	Date
A2565 Cook	Date	A2785 Elkins	Date	A3345 Hawley	Date
A2595 Corte	Date	A2790 Ellis, Dan	Date	A3180 Heflin	Date

For chief clerk use only
Bill or Resolution Number: HB 3915

A3310 Hilbert	Date	A3715 Madden	Date	A4435 Shields	Date
A3250 Hilderbran	Date	A3750 Marchant	Date	A4445 Siebert	Date
A3275 Hill	Date	A2700 Maxey	Date	A4525 Smith	Date
A3270 Hinojosa	Date	A3665 McCall	Date	A4530 Smithee	Date
A3305 Hochberg	Date	A3650 McClendon	Date	A4550 Solis, Jim	Date
A3290 Hodge	Date	A3845 McReynolds	Date	A4560 Solis, Juan	Date
A3325 Homer	Date	A3840 Merritt	Date	A4505 Solomons	Date
A3320 Hope	Date	A3855 Moreno, Joe	Date	A4515 Staples	Date
A3315 Howard	Date	A3860 Moreno, Paul	Date	A4570 Swinford	Date
A3355 Hunter	Date	A3870 Morrison	Date	A4585 Talton	Date
A3360 Hupp	Date	A3865 Mowery	Date	A4605 Telford	Date
A3375 Isett	Date	A3885 Naishtat	Date	A4630 Thompson	Date
A3415 Janek	Date	A3890 Najera	Date	A4635 Tillery	Date
A3410 Jones, Charles	Date	A3895 Nixon, Joe	Date	A4650 Truitt	Date
A3405 Jones, Delwin	Date	A3900 Noriega	Date	A2730 Turner, Bob	Date
A3400 Jones, Jesse	Date	A3880 Oliveira	Date	A4685 Turner, Sylvester	Date
A3440 Junell	Date	A3886 Olivo	Date	A4690 Uher	Date
A3475 Keel	Date	A4010 Palmer	Date	A4695 Uresti	Date
A3480 Keffer	Date	A4180 Pickett	Date	A4720 Van de Putte	Date
A3470 King, Phil	Date	A4185 Pitts	Date	A4990 Walker	Date
A3465 King, Tracy	Date	A4200 Puente	Date	A4995 West, George "Buddy"	Date
A3485 Krusee	Date	A4210 Ramsay	Date	A5035 Williams	Date
A3450 Kuempel	Date	A4240 Rangel	Date	A5000 Wilson	Date
A3510 Laney	Date	A4245 Reyna, Arthur	Date	A5020 Wise	Date
A3520 Lengefeld	Date	A4236 Reyna, Elvira	Date	A5015 Wohlgemuth	Date
A3605 Lewis, Glenn	Date	A4250 Ritter	Date	A4980 Wolens	Date
A3600 Lewis, Ron	Date	A4370 Sadler	Date	A5005 Woolley	Date
A3615 Longoria	Date	A4380 Salinas	Date	A5025 Yarbrough	Date
A3620 Luna, Vilma	Date	A4420 Seaman	Date	A5040 Zbranek	Date

JOINT AUTHOR AUTHORIZATION

As primary author of HB 3416 I hereby authorize the following joint author(s):
(bill or resolution #)

BARRY TELFORD
printed name of joint author #1

Barry Telford
signature of joint author #1

printed name of joint author #2

signature of joint author #2

printed name of joint author #3

signature of joint author #3

printed name of joint author #4

signature of joint author #4

Letitia H. Little
signature of primary author

3/12/99
date

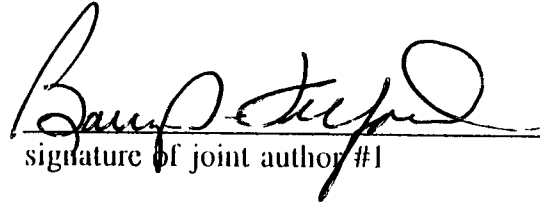
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As primary author of HB 3415 I hereby authorize the following joint author(s):
(bill or resolution #)

BARRY TELFORD
printed name of joint author #1


signature of joint author #1

printed name of joint author #2

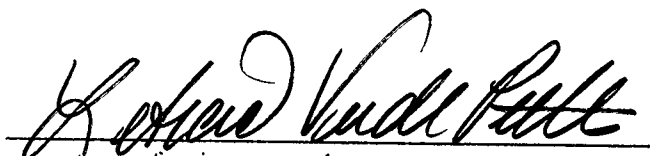
signature of joint author #2

printed name of joint author #3

signature of joint author #3

printed name of joint author #4

signature of joint author #4


signature of primary author

3/12/99
date

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H.B. No. 3415

By N. and P. R. R.

A BILL TO BE ENTITLED
AN ACT

Relating to regulation of mail order sales of hearing instruments.

MAR 12 1999

Filed with the Chief Clerk

MAR 17 1999

Read first time and referred to Committee on **Public Health**

Reported favorably (as amended)
(as substituted)

Sent to Committee on (Calendars)
(Local & Consent Calendars)

Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend) by a vote of _____ yeas, _____ nays, _____ present, not voting

Read third time (amended); finally passed (failed to pass) by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

Engrossed

Sent to Senate

CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

Received from the House

Read and referred to Committee on

Reported favorably

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)
(_____ yeas, _____ nays)

Read second time, _____, and passed to third reading by (unanimous consent)
(a viva voce vote)
(_____ yeas, _____ nays)

Senate and Constitutional 3 Day Rules suspended by a vote of _____ yeas, _____ nays

Read third time, _____, and passed by (a viva voce vote)
(_____ yeas, _____ nays)

Returned to the House

SECRETARY OF THE SENATE

OTHER SENATE ACTION:

_____ Returned from the Senate (as substituted)
(with amendments)

_____ House concurred in Senate amendments by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House refused to concur in Senate amendments and requested the appointment of a conference committee
by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House conferees appointed: _____, Chair; _____,
_____, _____, _____

_____ Senate granted House request. Senate conferees appointed: _____, Chair;
_____, _____, _____, _____

_____ Conference committee report adopted (rejected) by the House by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Conference committee report adopted (rejected) by the Senate by a (viva voce vote)
(record vote of _____ yeas, _____ nays)